

plaintiff's summary judgment motions pursuant to Federal Rule of Civil Procedure 56(d). [DE 41].

DISCUSSION

“[I]t is well settled that in civil actions the appointment of counsel should be allowed only in exceptional cases” *Cook v. Bounds*, 518 F.2d 779, 780 (4th Cir. 1975); *Whisenant v. Yuam*, 739 F.2d 160, 163 (4th Cir. 1984), abrogated on other grounds by *Mallard v. United States Dist. Court for the S. Dist. of Ia.*, 490 U.S. 296, 300 n.3 (1989). The existence of exceptional circumstances depends upon “the type and complexity of the case, and the abilities of the individuals bringing it.” *Whisenant*, 739 F.2d at 163 (quotation and citation omitted). Further, as a threshold matter, it is not proper to appoint counsel unless the plaintiff's case appears likely to be one of substance. *Tabron v. Grace*, 6 F.3d 147, 155 (3d Cir. 1993).

The Court does not believe that plaintiff's ailing health makes this an exceptional case, particularly given that plaintiff has filed motions subsequent to his request for counsel because of his alleged inability to represent himself. As such, it is proper to deny plaintiff's motion for appointment of counsel.


Summary judgment should only be granted “after adequate time for discovery,” *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986). A Rule 56(d) motion must be granted “where the nonmoving party has not had the opportunity to discovery information that is essential to his opposition.” *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 250 n.5 (1986). The Fourth Circuit has held that such motions “should be liberally granted” in order to protect non-moving parties from premature summary judgment motions. *Greater Baltimore Ctr. for Pregnancy Concerns, Inc. v. Mayor and City Council of Baltimore*, 721 F.3d 264, 281 (4th Cir. 2013) (quotation and citation omitted).

Plaintiff's motions for summary judgment both were filed prior to the entry of the scheduling order. Defendants have not deposed plaintiff or engaged in discovery, and plaintiff's second motion states that supporting documents and testimony are not yet available. [DE 37]. Accordingly, it is proper to deny plaintiff's motions for summary judgment.

CONCLUSION

For the foregoing reasons, plaintiff's motion for appointment of counsel [DE 24] and both motions for summary judgment [DE 35, 37] are DENIED.

SO ORDERED, this 2 day of ~~January~~ ^{February}, 2015.



TERRENCE W. BOYLE
UNITED STATES DISTRICT JUDGE